

**O.W., Appellant**

**Docket Nos. 21-1391 & 21-1392**

**DEPARTMENT OF VETERANS AFFAIRS,  
NEBRASKA/WESTERN IOWA HEALTHCARE  
SYSTEM, Grand Island, NE, Employer**

*Office of Solicitor, for the Director*

<sup>1</sup> In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on an appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

federal employment on November 27, 2019. OWCP assigned that claim OWCP File No. xxxxxx879.

Subsequently, on April 30, 2020 appellant, then a 61-year-old environmental engineer, filed an occupational disease claim (Form CA-2) alleging that he developed bilateral carpal tunnel syndrome (CTS) due to factors of his federal employment, including using a vibrating floor scrubber to strip and wax floors. He noted that he first became aware of his condition on June 19, 2019 and realized its relation to his federal employment on October 1, 2019. OWCP assigned that claim OWCP File No. xxxxxx542.

Later, on March 1, 2021 appellant, then a 62-year-old hospital housekeeping management worker, filed Form CA-2 alleging pinched nerves in his vertebrae causally related to factors of his federal employment, including years of repetitive motions when waxing floors. He noted that he first became aware of his condition and realized its relation to his federal employment on November 11, 2019. OWCP assigned that claim OWCP File No. xxxxxx875.

By decision dated April 6, 2020, OWCP denied appellant's claim in OWCP File No. xxxxxx879, finding that the evidence of record was insufficient to establish that the alleged employment factors occurred as described. It noted that he had not responded to the development questionnaire.

By decisions dated July 2 and September 16, 2020, and May 27, 2021, OWCP denied appellant's occupational disease claim in OWCP File No. xxxxxx542, finding that he had not submitted evidence establishing causal relationship between his diagnosed medical conditions and the accepted factors of his federal employment.

By decision dated April 12, 2021, OWCP denied appellant's claim in OWCP File No. xxxxxx875, finding that the evidence of record was insufficient to establish that the alleged employment factors occurred as described. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

The Board, having duly considered this matter, finds that this case is not in posture for decision.

OWCP's procedures provide that, cases should be administratively combined when correct adjudication of the issues depends on frequent cross-referencing between case files.<sup>2</sup> For example, if a new injury case is reported for an employee who previously filed an injury claim for a similar condition or the same part of the body, doubling is required.<sup>3</sup>

In the present claims, appellant alleged injuries due to the same factors of federal employment. However, appellant's claims have not been administratively combined. For a full and fair adjudication of appellant's claims, the case must be remanded to OWCP to

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<sup>2</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8c (February 2000); *T.D.*, Docket No. 20-1119 (issued January 29, 2021); *R.R.*, Docket No. 19-0368 (issued November 26, 2019).

<sup>3</sup> *Id.*; *M.B.*, Docket No. 20-1175 (issued December 31, 2020); *L.M.*, Docket No. 19-1490 (issued January 29, 2020).

administratively combine OWCP File Nos. xxxxxx875, xxxxxx879, and xxxxxx542 so it can consider all relevant claim files and accompanying evidence in adjudicating appellant's claims. Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision. Accordingly,

**IT IS HEREBY ORDERED THAT** the April 12, 2021 decision of the Office of Workers' Compensation Programs under OWCP File No. xxxxxx875 and the May 27, 2021 merit decision of OWCP under OWCP File No. xxxxxx542 are set aside and this cases are remanded for further proceedings consistent with this order of the Board.

Issued: May 26, 2022  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge  
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board